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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SAUL HUDSON p/k/a SLASH, an individual, and MICHAEL McKAGAN p/k/a DUFF, an individual, and GUNS N' ROSES, a California General Partnership,

Plaintiffs,

vs.

WILLIAM BAILEY p/k/a W. AXL ROSE, an individual, BLACK FROG MUSIC, a California corporation, KOBALT MUSIC PUBLISHING AMERICA, INC., a Delaware corporation, KOBALT MUSIC SERVICES AMERICA, INC., a Delaware corporation, KOBALT SONGS MUSIC PUBLISHING, a New York company, and DOES 1-10, inclusive.

Defendants.

W. AXL ROSE, an individual,

Counterclaimant,

v.

SAUL HUDSON p/k/a SLASH, an individual, and MICHAEL McKAGAN p/k/a DUFF, an individual,

Counterclaim-defendants.

Case No. CV05-6028 CBM (PLAx)

ANSWER OF DEFENDANT W. AXL ROSE TO PLAINTIFFS' COMPLAINT

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Defendant W. Axl Rose ("Rose") hereby answers the complaint filed by plaintiffs Saul Hudson p/k/a Slash, Michael McKagan p/k/a Duff and Guns N' Roses, a California Partnership (collectively, "Plaintiffs") as follows:

1. Rose denies the allegations set forth in Plaintiffs' "Introduction."

2. Answering paragraph 1, Rose admits that Plaintiffs purport to state claims for copyright infringement and that the Court has original jurisdiction over claims arising under the Copyright Act pursuant to 17 U.S.C. §§ 101 et. seq. and 28 U.S.C. §§ 1331 and 1338.

3. Answering paragraph 2, Rose admits that he resides in this District. Except as so admitted, Rose denies the allegations of paragraph 2 for lack of information and belief.

4. Answering paragraph 3, Rose admits that a California general partnership known as Guns N' Roses existed and did business in the State of California.

5. Answering paragraph 4, Rose admits that Saul Hudson p/k/a Slash is an individual residing in the State of California and that Hudson was a member of a general partnership known as Guns N' Roses.

6. Answering paragraph 5, Rose admits that Michael McKagan is an individual residing in the State of California and that McKagan was a member of a general partnership known as Guns N' Roses.

7. Answering paragraph 6, Rose admits that he is an individual residing in the State of California. Except as so admitted, Rose denies the allegations of paragraph 6.

8. Answering paragraph 7, Rose admits that Black Frog is a company affiliated with him doing business in California.

9. Rose denies the allegations of paragraph 8 for lack of information and belief.

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10. Rose denies the allegations of paragraph 9 for lack of information and belief.

11. Rose denies the allegations of paragraph 10 for lack of information and belief.

12. Rose admits the allegations of paragraph 11.

13. Rose admits the allegations of paragraph 12.

14. Answering paragraph 13, Rose admits that he executed a written partnership agreement and alleges that the document attached as Exhibit "A" to Plaintiffs' Complaint speaks for itself.

15. Answering paragraph 14, Rose admits that he sent a written notice to the partnership on or about August 31, 1995, the contents of which speak for itself. Except as so admitted, Rose denies the allegations of paragraph 14.

16. Rose denies the allegations of paragraph 15.

17. Answering paragraph 16, Rose alleges that the written partnership agreement executed by the parties speaks for itself.

18. Answering paragraph 17, Rose admits that the copyrights in certain songs authored by Rose and other members of Guns N' Roses were registered with the United States Copyright Office in the name of Guns N' Roses Music. Except as so admitted, Rose denies the allegations of paragraph 17.

19. Answering paragraph 18, Rose admits that songs authored by members of Guns N' Roses (including Rose) prior to December 30, 1995 are extremely valuable assets and generate substantial income. Rose further admits that ASCAP collects royalties relating to GN'R songs and that third parties contact ASCAP for information relating to the licensing of musical compositions. Except as so admitted, Rose denies the allegations of paragraph 18.

20. Answering paragraph 19, Rose is informed and believes, and based thereon alleges, that the Guns N' Roses partnership was registered with ASCAP

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for some period of time and that ASCAP paid public performance royalties to the partnership.

21. Rose denies the allegations of paragraph 20.

22. Answering paragraph 21, Rose admits that he owns and has the right to control and administer his share of the copyrights in the songs he jointly authored with other members of Guns N' Roses. Except as so admitted, Rose denies the allegations of paragraph 21.

23. Answering paragraph 22, Rose realleges and incorporates by reference paragraphs 1-21 above as though set forth in full hereat.

24. Answering paragraph 23, Rose admits that the copyrights in certain songs authored by Rose and other members of Guns N' Roses were registered with the United States Copyright Office in the name of Guns N' Roses Music. Except as so admitted, Rose denies the allegations of paragraph 23.

25. Rose denies the allegations of paragraph 24.

26. Rose denies the allegations of paragraph 25.

27. Answering paragraph 26, Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

28. Answering paragraph 27, Rose realleges and incorporates by reference paragraphs 1-26 above as though set forth in full hereat.

29. Answering paragraph 28, Rose admits that partners in a partnership owe one another fiduciary and other duties. Except as so admitted, Rose denies the allegations of paragraph 28.

30. Rose denies the allegations of paragraph 29.

31. Rose denies the allegations of paragraph 30.

32. Rose denies the allegations of paragraph 31.

33. Rose denies the allegations of paragraph 32.

34. Answering paragraph 33, Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

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35. Answering paragraph 34, Rose realleges and incorporates by reference paragraphs 1-33 above as though set forth in full hereat.

36. Answering paragraph 35, Rose admits that partners in a partnership owe one another fiduciary and other duties. Except as so admitted, Rose denies the allegations of paragraph 35.

37. Rose denies the allegations of paragraph 36.

38. Rose denies the allegations of paragraph 37.

39. Rose denies the allegations of paragraph 38.

40. Rose denies the allegations of paragraph 39 for lack of information and belief.

41. Rose denies the allegations of paragraph 40.

42. Rose denies the allegations of paragraph 41.

43. Rose denies the allegations of paragraph 42.

44. Answering paragraph 43, Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

45. Answering paragraph 44, Rose realleges and incorporates by reference paragraphs 1-43 above as though set forth in full hereat.

46. Rose denies the allegations of paragraph 45.

47. Answering paragraph 46, Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

48. Answering paragraph 47, Rose realleges and incorporates by reference paragraphs 1-46 above as though set forth in full hereat.

49. Answering paragraph 48, Rose admits that he has derived benefits as a member of the Guns N' Roses partnership and that ASCAP distributes public performance royalties. Except as so admitted, Rose denies the allegations of paragraph 48 for lack of information and belief.

50. Rose denies the allegations of paragraph 49.

51. Rose denies the allegations of paragraph 50.

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52. Rose denies the allegations of paragraph 51.

53. Rose denies the allegations of paragraph 52.

54. Answering paragraph 53 , Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

55. Answering paragraph 54, Rose realleges and incorporates by reference paragraphs 1-53 above as though set forth in full hereat.

56. Answering paragraph 55, Rose admits that contracts in California contain an implied covenant of good faith and fair dealing as provided by law.

57. Rose denies the allegations of paragraph 56.

58. Rose denies the allegations of paragraph 57.

59. Rose denies the allegations of paragraph 58.

60. Answering paragraph 59 , Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

61. Answering paragraph 60, Rose realleges and incorporates by reference paragraphs 1-59 above as though set forth in full hereat.

62. Rose admits the allegations of paragraph 61.

63. Answering paragraph 62, Rose admits that Plaintiffs are requesting a declaration in their favor as described in the complaint. Rose denies that Plaintiffs are entitled to such relief.

64. Answering paragraph 63 , Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

65. Answering paragraph 64, Rose realleges and incorporates by reference paragraphs 1-63 above as though set forth in full hereat.

66. Rose denies the allegations of paragraph 65.

67. Rose denies the allegations of paragraph 66.

68. Rose denies the allegations of paragraph 67.

69. Answering paragraph 68 , Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

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70. Answering paragraph 69, Rose realleges and incorporates by reference paragraphs 1-68 above as though set forth in full hereat.

71. Rose denies the allegations of paragraph 70.

72. Rose denies the allegations of paragraph 71.

73. Answering paragraph 72 , Rose denies that Plaintiffs are entitled to judgment as prayed, or at all.

74. Answering paragraph 73, Rose realleges and incorporates by reference paragraphs 1-72 above as though set forth in full hereat.

75. Rose denies the allegations of paragraph 74.

76. Rose denies the allegations of paragraph 75.

77. Rose denies the allegations of paragraph 76.

78. Answering paragraph 77, Rose admits that Plaintiffs are seeking injunctive relief as set forth in the complaint. Rose denies that Plaintiffs are entitled to such relief.

FIRST AFFIRMATIVE DEFENSE

79. The complaint, and each purported cause of action set forth therein, fails to state facts sufficient to constitute a cause of action against Rose.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their alleged damages, if any.

THIRD AFFIRMATIVE DEFENSE

80. Plaintiffs' claims are barred, in whole or in part, by waiver, estoppel and/or laches.

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FOURTH AFFIRMATIVE DEFENSE

81. The conduct about which Plaintiffs complain is privileged.

FIFTH AFFIRMATIVE DEFENSE

82. Plaintiffs' claims are barred, in whole or in part, by applicable statutes of limitations.

WHEREFORE, Rose prays:

(1) That Plaintiffs take nothing by their complaint;

(2) For costs of suit, including reasonable attorneys' fees; and

(3) For such other and further relief as the Court deems just and proper.

DATED: March 1, 2006

Respectfully Submitted,

GREENBERG GLUSKER FIELDS CLAMAN MACHTINGER & KINSELLA LLP

BY: _____
HOWARD WEITZMAN
Attorneys for Defendant and Counterclaimant
W. AXL ROSE

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DEMAND FOR JURY TRIAL

Pursuant to the Seventh Amendment of the United States Constitution and Federal Rule of Civil Procedure 38(b), Defendant and Counterclaimant W. Axl Rose hereby demand a trial by jury of all issues so triable.

DATED: March 1, 2006

Respectfully Submitted,

GREENBERG GLUSKER FIELDS CLAMAN MACHTINGER & KINSELLA LLP

By: _____
HOWARD WEITZMAN
Attorneys for Defendant and Counterclaimant
W. AXL ROSE

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PROOF OF SERVICE
CCP §1011, CCP §1013a(3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is 1900 Avenue of the Stars, Suite 2100, Los Angeles, California 90067-4590.

On March 3, 2006, I served the foregoing document described as **ANSWER OF DEFENDANT W. AXL ROSE TO PLAINTIFFS' COMPLAINT** on the interested parties in this action

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Glendon W. Miskel, Esq. Johnson & Miskel 2330 Marinship Way, Suite 230 Sausalito, California 94965 –2800	Attorneys for Plaintiff and Counterclaim-Defendant MICHAEL McKAGAN p/k/a DUFF
Russell J. Frackman, Esq. Lucia E. Coyoca, Esq. Marc E. Mayer, Esq. MITCHELL SILBERBERG & KNUPP LLP 11377 West Olympic Boulevard Los Angeles, CA 90064-1683	Attorneys for Plaintiff and Counterclaim-Defendant SAUL HUDSON p/k/a SLASH

BY MAIL:

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 3, 2006, at Los Angeles, California.

BY PERSONAL SERVICE:

☐ I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at Los Angeles, California.

☒ (Fed) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Nancy L. Luis

Nancy L. Luis
Signature

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